

YAZOO COUNTY SCHOOL DISTRICT

**MICKEY RIVERS, ADMINISTRATIVE ASSISTANT
SIXTEENTH SECTION LAND MANAGER**

Post Office Box 1088
YAZOO CITY, MISSISSIPPI (MS) 39194

RECEIVED & INSPECTED

AUG 31 2005

FCC - MAILROOM

DOCKET FILE COPY ORIGINAL

August 25, 2005

CC Docket No. 02-6
Request for Review

Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

RE: Billed Entity Number: 128639
Yazoo County School District
Mickey Rivers, Technology Coordinator
119 West Jefferson Street
Yazoo City, MS 39194
(662) 746-4672 Phone
(662) 746-9270 Fax
mrivers@yazoo.k12.ms.us

This letter is an appeal requesting review of a decision on an appeal made by the SLD as referenced in the attached Administrator's Decision on Appeal letter dated June 30, 2005:

Funding Year: 2003
Form 471 Application Number: 363676,
Funding Request Numbers: 986589, 986814, 986870, 986906, 987053, 987105, 987150, 987187, 987227, 987300, and 987393.

SLD's review of Form 471 application number 363676 determined that price was not the primary factor when we selected our service provider as stated in the

Funding Commitment Decision Letter dated January 25, 2005. The SLD's review of our appeal dated March 22, 2005 states that we did not demonstrate in our appeal that price was the primary factor when selecting our service provider; therefore SLD denied our appeal as stated in their letter dated June 30, 2005.

In our original appeal to SLD dated March 22, 2005, a very detailed description is provided for each individual FRN of what procurement procedure was utilized for each request. There were a total of 5 different procurement vehicles used during the entire process of filing for our Funding Year 2003 471 application. For some of these procurement vehicles, price has already been the established primary factor, and then the district is to choose a service provider utilizing other evaluation factors. With so many different procurement vehicles being used for this process, it made it very difficult to clearly understand the requests being made during the SLD review and also to clearly define our deciding evaluation factors when referencing a complete 471 application that included various Funding Requests Numbers. With each Funding Request Number utilizing a different procurement vehicle, it was not possible to be consistent in our responses because many times we were trying to answer the request when referencing the 471 application as a whole and not per each Funding Request Number.

Yazoo County School District put forth an immense effort from July 2004 through November 2004 to provide the required documentation and information that was requested during the review by SLD. During this time, it was sometimes confusing and not completely clear what was being requested. When being asked to provide documentation explaining the vendor selection process and if more than one factor was used in the evaluation process for the Funding Request Numbers, it is demonstrated in the various responses that we submitted that there was some confusion and also some assumptions made by both parties, Yazoo County School District and SLD.

July 9, 2004 – we mentioned that there were two bids, that there was a cost difference between the two bids, that the services were listed on the state master contract and the service provider that we chose.

“There were assumptions made by Yazoo CSD that it was obvious that price was the primary deciding factor because documentation was provided that illustrated that the service provider chosen provided the lowest priced bid”.

August 31, 2004 – we stated that the factors between the two vendors were price and availability.

“Again, there was an assumption made by Yazoo CSD that it was obvious that price was the primary deciding factor because documentation was provided that illustrated that the service provider chosen provided the lowest priced bid”.

September 13, 2004 – we stated the service provider was chosen because of Price (40%) and Availability (60%).

“Yazoo CSD did not provide SLD with the complete information which caused an incorrect assumption by SLD. This information that helps to make this response complete is provided in our email dated November 4, 2004 which is attached with the original appeal dated March 22, 2005. Availability is divided into two equal weighted factors that total the 60%, making them equal to 50% each of the 60%. When price has already been the deciding factor through a state master contract, then these two factors are used equally as 50% each for a total of 100%. We did not provide the complete information here that shows the 60% of Availability is broken down into two equal factors (Geographic Location/Proximity) and (Excellent Work Record in the Past)”. Here is an example:

Price	40%
Availability (60%)	
(50%) Geographic/Proximity	30%
(50%) Past Work Record	30%
<hr/>	
Total Weighted Evaluation	100%

November 4, 2004 – we did not mention price in this response but did provide details of how state master contracts have already chosen vendors through a bidding process and the weighted percent of each of the two factors for Availability.

“Yazoo CSD did assume that it was understood by SLD that if a vendor had been chosen on a state master contract that price was the primary factor in that process (this documentation is provided on attachment #5 of the original appeal to SLD dated March 22, 2005). Therefore, when providing deciding factors and weighted percentages, price was not included, as it was assumed by Yazoo CSD that by explaining state master contracts it was known that price has already been the deciding factor for that vendor to be listed. The details provided shows Geographic Location/Proximity 50% and Excellent Work Record 50% make for the total of Availability. Since the factors had been broken down already in the previous response dated September 13, 2004, it was also assumed by Yazoo CSD that SLD would know these two factors total Availability. SLD assumed that since price was not mentioned in this response that it was not used as a deciding factor, however it was stated that state master contracts were used and price has already been the main deciding factor”.

In the email response dated November 4, 2004 (attachment #2 of original appeal to SLD dated March 22, 2004) the last two paragraphs state:

Synergetics – We chose Synergetics for our Smartnet Maintenance **from the state contract**. We chose them because of our geographic location and proximity (50%) and because of their excellent work record in the past (50%).

Synergetics – We chose Synergetics for all Internal Connections projects **that were on the state contract**. We chose them because of our geographic location and proximity (50%) and because of their excellence work record in the past (50%).

Both of the above statements reference state contracts and the deciding factors for choosing the service provider with the assumption that SLD knows that state master contracts have already chosen the vendors through a bidding process with price as the primary deciding factor.

The Schools and Libraries Contract Guidance states:

If the applicant selects the state master contract as the most cost-effective alternative, the applicant is required to follow the applicable provisions of the state master contract, state contract law, and state and local procurement laws. The signed state master contract between the state and the service provider meets the FCC signed contract requirement.

Yazoo County School District followed the competitive bid process, state contract law, and state and local procurement laws and did receive two bids for every request on the referenced 471 application. **For every Funding Request Number listed on this 471 application, the service provider with the lowest priced bid was chosen.** As demonstrated throughout this letter, the assumption was that SLD understood that state master contracts have already chosen vendors with price being the primary factor. When state master contracts were not used, the weighted factors were stated as Price 40% and Availability 60% with the description of the two equal factors that total availability provided in the email response dated November 4, 2004 which equates to 40%, 30%, and 30% with price being the primary deciding factor. This is not new information, but an attempt to elaborate on the information that was provided in the email document dated November 4, 2004 stating availability had two equal factors weighting 50% each.

The referenced 471 application has 11 Funding Request Numbers with 5 different procurement vehicles. In referencing the 4 listed responses submitted by Yazoo CSD over a 5 month period, our entire 471 application has been denied because of one sentence that was submitted on September 13, 2004. *This letter is not intended to introduce new information but to provide documentation that is consistent with the information originally provided to clarify any incorrect assumptions that were made that resulted into a Not Funded status for each of these requests which total over \$142,000.00.* The statement that was made on September 13, 2004 was only for non-state contract requests, it was

not intended to be used for state master contract requests as you can see from the statement made in the November 4, 2004 email.

If the statement (price 40%, availability 60%) made on September 13, 2004 was meant for every Funding Request listed on the referenced 471 application, then how could SLD have made the assumption that proximity and excellent work totaled 100% (from our email dated November 4, 2005) as they stated in the second paragraph on page 2 of the appeal letter dated June 30, 2005? From that statement, SLD is assuming that Price is not included as a deciding factor at all.

As illustrated throughout this letter and the original appeal, price has already been the deciding factor for state contract requests and the two equal factors described in the email dated November 4, 2004 are used for choosing service providers listed on the state contracts. The original appeal letter dated March 22, 2005 describes each of the procurement vehicles used and how Yazoo CSD followed state and local procurement laws for vendor selection with each selection being the service provider that provided the most cost-effective products and services.

Yazoo County School District is requesting a review of the SLD's decision to deny the funding request for failure to consider price as the primary factor in the vendor selection process. Yazoo CSD is requesting our appeal to be granted as one of the four circumstances when appeals can be granted on the following basis as listed under USAC Appeal Guidelines:

When the appeal provides documentation to correct an incorrect SLD assumption made because there was insufficient information in the application file about an issue. In general, PIA will contact the applicant and ask for all information necessary to make decisions about an application. If that contact does not occur, however, and funding is denied based on an incorrect assumption, the SLD will grant an appeal when the appellant points out the incorrect assumption and provides documentation about the issue that is consistent with information originally provided but also successfully resolves the ambiguity in the original file.

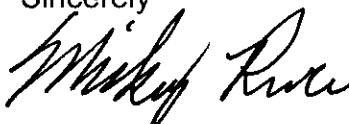
Yazoo County School District has demonstrated that an incorrect assumption was made by SLD that price was not the primary factor in the vendor selection process because of insufficient information provided during the PIA review of our 471 Application Number 363676. We have demonstrated that price was the primary deciding factor for our service provider selection and that every funding request for this application chose the service provider that provided the most cost-effective products and services. We have established that because of the various procurement vehicles used for this 471 application, there was confusion and varied responses for the requested information by SLD. From the 4 noted responses, the confusion resulted into none of the responses being consistent or

complete which caused an incorrect assumption to be made by SLD from insufficient information.

Based on the information provided in this letter and all attached documents, the Yazoo County School District requests that an appeal be granted to correct an SLD assumption made because of insufficient information. The Yazoo County School District requests that the Funding Status of "Not Funded" because of bidding violation be changed to "Funded" for each Funding Request Number listed on 471 Application Number 363676 due to the fact that no bidding violations have occurred and the service provider that provided the most cost-effective products and services was chosen for each.

Thank you for your review of our request. Please contact me with any questions or additional information that you may require during your review. Any consideration of this request will be most greatly appreciated.

Sincerely

A handwritten signature in cursive script, appearing to read "Mickey Rivers".

Mickey Rivers
Technology Coordinator

Enclosures:

Attorney Letter of Support
Administrator's Decision on Appeal dated June 30, 2005
Letter of Appeal dated March 22, 2005

HENRY, BARBOUR, DECELL & BRIDGFORTH, PLLC

ATTORNEYS AT LAW

117 EAST JEFFERSON STREET

P.O. BOX 1569

YAZOO CITY, MISSISSIPPI 39194

TELEPHONE (662) 746-2134 FAX (662) 746-2167

WILLIAM A. HENRY

1859-1918

J. F. BARBOUR

1875-1950

J. F. BARBOUR, JR.

1913-1950

W. A. HENRY

1883-1971

HERMAN B. DECELL

1924-1986

WILLIAM H. BARBOUR

1914-1999

WILEY J. BARBOUR
E. BARRY BRIDGFORTH

August 25, 2005

**CC Docket No. 02-6
Request for Review**

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

RECEIVED & INSPECTED

AUG 31 2005

FCC - MAILROOM

RE: Yazoo County School District
Billed Entity Number: 128639
471 Application Number: 363676
Funding Request Numbers: 986589, 986814, 986870, 986906, 987053, 987105,
987150, 987187, 987227, 987300, 987393

This letter is in support of the "Request for Review" appeal submitted by the Yazoo County School District. In review of the appeal documents, the following determinations have been concluded and support the request for Funding Status of "Funded" for the Yazoo County School District 471 application 363676.

In accordance with the Schools and Libraries Contract Guidance, the establishing Form 470 is the Form 470 that serves as the basis for the competitive bidding process. If the applicant files a Form 470 and considers a state master contract as one of the bids, the applicant must follow a competitive bid process pursuant to FCC competitive bidding requirements and state and local procurement law. Price must be the primary factor and must be weighted more heavily than any other factor. If the applicant selects the state master contracts as the most cost-effective alternative, the applicant is required to follow the applicable provisions of the state master contract, state contract law, and state and local procurement laws. The signed state master contract between the state and the service provider meets the FCC signed contract agreement.

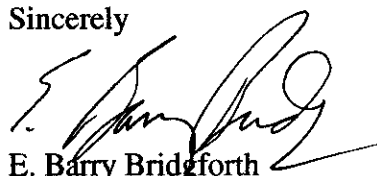
The Yazoo County School District posted the Form 470 #990940000426830 on November 7, 2002 as the basis for following the Schools and Libraries Contract Guidelines for the competitive bidding process. For bids selected from state master contracts, provisions were followed for the state master contract, state contract law, and state and local procurement laws. For bids selected outside of state master contracts, contracts were signed between the applicant and the service provider.

Purchases made by the Yazoo County School District are included in the agenda for the monthly scheduled board meetings and are officially approved by the board members. The board members are well informed of procurement laws and validates that the district follows these procurement laws during the board meeting review. The general policy of the district is to use price as the primary factor for purchases with other various evaluation criteria to be used for final purchasing decisions.

Please review the attached appeal documents prepared by the Yazoo County School District that demonstrate one of the four circumstances have occurred when appeals can be granted by USAC, assuming there are no other issues identified during review. An incorrect SLD assumption has been made based on insufficient information provided during the PIA and this information is consistent with information originally provided to successfully resolve the ambiguity in the original file. In review of the four stated and documented responses on July 9, August 31, September 13, and November 4, the SLD review of only one of those responses was used to determine the funding decision of all FRNs listed in the application. If all responses are reviewed together, it will demonstrate the applicant was apprehensive and confused in their response as to the exact information that was being requested and it explains why each time they were asked the same question they responded somewhat differently. With the assumption that price was the deciding factor, the applicant was trying to provide other evaluation criteria that was used in the selection of the service providers.

Please let this letter serve as support documentation that requests that the Funding Status of "Not Funded" because of bidding violation be changed to "Funded" as a result that an incorrect assumption has been made by SLD based on insufficient information and that **price was the primary factor for selecting the service providers** of the listed FRNs.

Sincerely



E. Barry Bridgforth
Yazoo County School
District Board Attorney

EBB/gs

cc: YCSD Superintendent

YCSD Board President

YCSD Technology Coordinator

c: YCSD.FCCltr.082505



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

June 30, 2005

Mickey Rivers
Yazoo County School District
119 West Jefferson Street
Yazoo City, MS 39194

Re: Applicant Name: YAZOO COUNTY SCHOOL DISTRICT
Billed Entity Number: 128639
Form 471 Application Number: 363676
Funding Request Number(s): 986589, 986814, 986870, 986906, 987053,
987105, 987150, 987187, 987227, 987300,
987393
Your Correspondence Dated: March 22, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2003 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 986589, 986814, 986870, 986906, 987053,
987105, 987150, 987187, 987227, 987300,
987393

Decision on Appeal: **Denied**

Explanation:

- On appeal, you seek reversal of the SLD's decision to deny the funding requests for failure to consider price as the primary factor in the vendor selection process. In support of your request, you assert that you had explained in your November 4, 2004 email the bidding process for state master contracts and agreements then had listed additional criteria that were used for selecting the vendors. You further state that price was clearly the primary factor based on the state bidding process, state law and the quotes that were provided.

- After thorough review of the appeal, relevant facts and documentation, it was determined that SLD had contacted you on July 15, 2004, August 30, 2004, and September 13, 2004 and asked you to provide documentation explaining the vendor selection process for these FRNs. In addition, SLD also asked that, if more than one factor was used in the evaluation process to determine the winning bid, you should indicate how those factors were weighted (points or percentage) in the evaluation process. In your response on July 9, 2004, you mentioned that there were two bids, but it only mentions the cost difference between choosing the products and services that were on the state's list versus choosing Synergetics' bid. On August 31, 2004, you responded with a clear statement that the factors between the two vendors were price and availability. However, there was no weighing of the two factors. On September 13, 2004, you responded that Synergetics was chosen because of Price (40%) and Availability (60%). On November 4, 2004, the information received from you did not mention price at all. There is a mention of the state law bidding process, but there is no mention of that being the primary factor.

Additionally, Yazoo County School District filed its own Form 470 for this FRN. As is noted in the Contract Guidance under the Reference section on the SLD website (www.sl.universalservice.org), Yazoo County School District was required to consider state master contracts only as one of the bids. As is also noted in this section, "the applicant must follow a competitive bid process pursuant to FCC competitive bidding requirements" in addition to state and local procurement law. Price must be the primary factor and must be weighted more heavily than any other factor. In the September 13, 2004 response, price is clearly not the primary factor. Additionally, the only factors mentioned for Yazoo County School District's decision in the November 4, 2004 email for selecting Synergetics is their proximity and their excellent work record. These two factors have an equal weight that totals 100%. Therefore, based on the documentation provided, price was not the primary factor in the vendor selection process. Since price was not the primary factor in the evaluation criteria, the SLD determined that the vendor selection process did not comply with the rules of the Schools and Libraries Support Mechanism. Although on appeal, you assert that price was the primary factor, program rules do not permit SLD to accept new information on appeal except where an applicant was not given an opportunity to provide information during the initial review or an error was made by SLD. On appeal, you fail to demonstrate that the SLD erred in its original determination.

- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective products and services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al.*

Federal State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries, CC Docket No. 96-45, Public Notice, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

March 24, 2005

Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

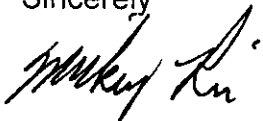
To Whom It May Concern:

Please find attached a Letter of Appeal filed by Yazoo County School District. In this appeal, we have made clear that all Mississippi procurement laws and program rules have been followed and that price was the primary factor in selecting service providers for Internal Connections for Funding Year 2003. In this appeal we request that the Funding Status of "Not Funded" be modified to "Funded" for all referenced Funding Request Numbers in the attached appeal letter.

It is our hope that this appeal will provide sufficient documentation to allow the funding status to be modified for each of the Funding Request Numbers referenced. The district has already purchased many of the products and services requested on this application with plans to file a Form 472 BEAR for reimbursement. All of these purchases followed Mississippi State procurement laws and have been invoiced and paid by the district. If this appeal is not approved, the Yazoo County School District will not be reimbursed and the technology budget for the district will experience severe financial hardship.

Your careful consideration and attention to this appeal is greatly appreciated.

Sincerely

A handwritten signature in black ink, appearing to read "Mickey Rivers", written over a horizontal line.

Mickey Rivers
Technology Coordinator
Yazoo County School District

March 22, 2005

Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

RE: Entity Number: 128639
Yazoo County School District
Mickey Rivers, Technology Coordinator
119 West Jefferson Street
Yazoo City, MS 39194
(662) 746-4672 Phone
(662) 746-9270 Fax
mrivers@yazoo.k12.ms.us

This letter is an appeal for Funding Year 2003 (07/01/2003 – 6/30/2004) for the Funding Commitment Decision Letter dated January 25, 2005 (attachment #1) with Funding Requests status "Not Funded". Reason for Funding Commitment Decision of "Not Funded" for each of the Funding Request Numbers is stated as follows:

Bidding Violation – Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Since all FRNs were denied based on the School and Libraries Division's interpretation that price was not the primary factor in vendor selection, the appeal focuses on an analysis of the procurement methods used to select from potential vendors for each FRN in question. The table below summarizes the procurement vehicle used for each of the 11 FRNs.

FRN	Amount Requested	Description of Products/Services	Procurement Vehicle
987150	\$5,246.00	Cisco Router	RFP 3000 State Master Purchase Agreement
987287	\$5,246.00	Cisco Router	RFP 3000 State Master Purchase Agreement
987227	\$5,246.00	Cisco Router	RFP 3000 State Master Purchase Agreement
987300	\$5,246.00	Cisco Router	RFP 3000 State Master Purchase Agreement
986589	\$14,796.00	Dell Server/Installation	LAN-Server State Multiple Award Schedule
987105	\$12,586.00	Dell Server/Installation	LAN-Server State Multiple Award Schedule
987053	\$47,037.00	Network Cabling	LAN-Network State Multiple Award Schedule
987393	\$10,353.50	3Com PBX System	Open Procurement via State Commodity Purchasing
986814	\$21,120.00	Basic Network Maintenance	Open Procurement via State Services Purchasing
986870	\$21,120.00	Basic Network Maintenance	Open Procurement via State Services Purchasing
986906	\$21,120.00	Basic Network Maintenance	Open Procurement via State Services Purchasing

As indicated in the table above, 5 different procurement vehicles were utilized:

1. RFP 3000 – Fixed-Price State Master Purchase Agreement for Cisco WAN Equipment
2. LAN-Server – State Multiple Award Schedule for Servers, Tape Storage, UPS, and Related Services
3. LAN-Network – State Multiple Award Schedule for LAN Equipment and Services
4. Open Procurement via State Commodity Purchasing Laws
5. Open Procurement via State Services Purchasing Laws

During the PIA Review for these FRNs, the question was asked what evaluation criteria was utilized in the selection of vendor(s). A response was sent to Earl Baderschneider by email on November 4, 2004 (see attachment #2) that explained the bidding process for state master contracts and agreements and the **additional criteria** the Yazoo County School District uses for selecting vendors listed on these contracts. Various state master contracts, agreements, and procurement laws were utilized for these FRNs and the details provided below will demonstrate that **price was the primary factor** for vendor selection for each of the listed FRNs.

1. RFP 3000 – is a **fixed price** State Master Purchase Agreement (attachment #3) between the Mississippi Department of Information Technology Services (ITS) and Cisco Systems, Inc., whereas Cisco was the successful respondent in an open, fair, and competitive procurement process for providing WAN equipment and related services. Cisco uses resellers (fulfillment agents) for distributing these products and services as listed on the K-12 Network Equipment List (attachment #4). **Pricing on this contract is fixed – it cannot be raised or lowered.** The equipment and services listed on this contract have been awarded exclusively to Cisco with pricing approved and published by ITS. In an event that there is a price decrease, it is then provided by Cisco through the current United States price list of products directly from Cisco (see section 6.3 of attachment #3). As these products and services have already been bid and evaluated, **price was the ultimate primary deciding factor** established by the ITS department.

The **additional criteria** stated in the last paragraph of the email response (attachment #2) is in addition to price already evaluated by the ITS department. Therefore, with **price being the ultimate primary deciding factor established by ITS**, the district used 50% for geographic location and 50% of past work history with the district for choosing which vendor from the authorized reseller group (listed on attachment #4) to purchase the router equipment.

RFP 3000 was used as the procurement vehicle for FRNs 987150, 987287, 987227, and 987300.

2. LAN-Server – is a State Multiple Award Schedule for Servers, Tape Storage, UPS, and Related Services in the form of an EPL (Express Products List). EPLs are

compilations of competitive proposals advertised for, evaluated, and then published by ITS for use by agencies in expediting routine IS procurements. These products and services are bid in an open, fair, and competitive procurement process by ITS and awarded to multiple vendors. Evaluation criteria include lowest and ongoing cost; vendor's past performance on contracts; vendor's ability to provide service, maintenance, and training; and vendor's quality/strength/location. ITS selects vendors for this EPL based on the lowest and best offerings (attachment #5, section 1.4). Access is provided for these purchases through the ITS website with a defined procedure and approval requirement stated in the ITS Procurement Handbook (attachment #6) allowing purchases directly from the published pricing list of the EPL, with purchases under \$50,000.00 being authorized by receiving one quote from an authorized listed vendor.

As you can see from the attached EPL 3275 document (attachment #7) for the purchase of the Dell servers from the LAN-SERVER EPL (FRNs 986589 and 987105), this product is provided by the Dell manufacturer with authorized resellers (fulfillment agents). The server is published in the EPL by the manufacturer with an approved price by ITS and a listing of authorized resellers for which to choose. **The product has already been bid and evaluated by the ITS department with the ultimate primary deciding factor being price,** the district then chooses the reseller from **additional evaluation criteria** specific to their needs and requirements. So, ultimately price has been the primary deciding factor established by the ITS department. The additional evaluation criteria stated in the last paragraph of the email response is in addition to price. Therefore, with price being the ultimate primary deciding factor for the product established by ITS, the district used 50% for geographic location and 50% of past work history with the district for choosing which vendor from the reseller group to purchase the Dell servers.

LAN-Server EPL was used as the procurement vehicle for FRNs 986589 and 987105.

3. LAN-Network – is a State Multiple Award Schedule for LAN Equipment and Services in the form of an EPL (Express Products Lists).). This EPL is a compilation of competitive proposals advertised for, evaluated, and then published by ITS for use by agencies in expediting routine IS procurements. These products and services are bid in an open, fair, and competitive procurement process by ITS and awarded to multiple vendors. ITS selects vendors for this EPL based on the lowest and best offerings (attachment #5, section 1.4). Access is provided for these purchases through the ITS website with a defined procedure and approval requirement stated in the ITS Procurement Handbook (attachment #6) allowing purchases directly from the published pricing list of the EPL, with purchases under \$50,000.00 being authorized by receiving one quote from an authorized listed vendor.

The purchasing process for switches from this EPL is very similar to the LAN-Server EPL. The switches are published in the EPL by the manufacturer with an approved price by ITS and a listing of authorized resellers (fulfillment agents) to choose. **The product has already been bid and evaluated by the ITS department with the ultimate primary deciding factor being price,** the district then chooses the authorized reseller

from **additional evaluation criteria** specific to their needs and requirements. As you can see from the attached EPL 3276 document (attachment #8) for the purchase of Cisco switches from the LAN-Network EPL, this product is provided by the Cisco manufacturer with authorized resellers (fulfillment agents). The switches are published in the EPL by the manufacturer with an approved price by ITS and a listing of resellers for which to choose. **The product has already been bid and evaluated by the ITS department with the ultimate primary deciding factor being price**, the district then chooses the reseller from additional evaluation criteria specific to their needs and requirements.

For network cabling products and services listed on the LAN-Network EPL, ITS selects multiple vendors from an open, fair, and competitive procurement process to provide these products and services. These products and services have already been bid and evaluated by the ITS department with the **ultimate deciding primary factor being price**. Although, two vendor quotes are not required for purchases from this EPL, we did request and receive two vendor quotes for the switches and network cabling requested. The two attached quotes (attachment #9) reflect that **price was the primary deciding factor** for this request as the lower quote was in the amount of \$47,037.00 and the higher quote was in the amount of \$49,907.00. The funding request for FRN 987053 was in the amount of \$47,037.00 demonstrating that **price was the ultimate primary deciding factor** for this request.

4. Open Procurement via State Commodity Purchasing Laws is defined in Section 37-7-13 (attachment #10) of the State of Mississippi Department of Purchasing Procurement Manual. Section b of this attachment defines the bidding procedures for purchases over \$3,500 but not over \$15,000.00 may be made from the lowest and best bidder provided at least two competitive written bids have been obtained. FRN 987393 is a request for a 3Com NBX Telephony system which is not available through any of the state master agreements. We requested a quote from two vendors for the E-rate eligible components of this system (attachment #11). The two attached quotes reflect that **price was the primary deciding factor** for this request as the lower quote was in the amount of \$10,353.50 and the higher quote was in the amount of \$10,554.00. The funding request for FRN 987393 was in the amount of \$10,353.50 demonstrating that **price was the ultimate primary deciding factor** for this request.

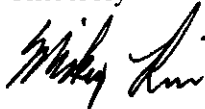
5. Open Procurement via State Services Purchasing Laws is defined in Section 3.207.01 (attachment #12) of the State of Mississippi Department of Purchasing Procurement Manual. Mississippi procurement law does not require agencies to bid for service contracts that do not include the acquisition of a commodity. FRN 986814, 986870, and 986906 are requests for a basic network maintenance service contract for E-rate eligible products. Although not required by Mississippi procurement law, in an effort to ensure that our district received the lowest and best service contract, we requested quotes from two vendors. The attached quotes reflect that **price was the primary deciding factor** for this request as the lower quote was in the amount of \$63,600.00 and the higher quote was in the amount of \$112,900.00. The funding request amount for these three FRNs total

\$63,600.00 demonstrating that **price was the ultimate primary deciding factor** for this request.

Please note that many rules and regulations required by SLD have been revised and changed since the application filing for Funding Year 2003. Note that two quotes were requested where applicable and price was the primary factor for selecting a service provider for each. Every effort has been made by the Yazoo County School District to follow all Mississippi procurement laws and SLD procedures in filing for these funding requests. We feel that effort has been demonstrated by the details provided in this appeal letter and documentation has been provided for your review.

Based on the information provided above, it is clear that **price was the primary factor in selecting the service provider** for each of the listed FRNs. Since all of the listed FRNs were denied based on the School and Libraries Division (SLD) interpretation that price was not the primary factor in selecting the service providers, this appeal is to request that SLD review the facts that all Mississippi procurement laws were followed and all E-rate guidelines were followed for these E-rate Funding Year 2003 Funding Requests. The Yazoo County School District requests that the Funding Status of "Not Funded" because of bidding violation be changed to "Funded" due to the fact that **price was indeed the primary factor for selecting the service providers** of these FRNs.

Sincerely



Mickey Rivers
Technology Coordinator

Enclosures:

- Attachment #1: Funding Commitment Decision Letter
- Attachment #2: Copy of Email Correspondence with Earl Baderschneider
- Attachment #3: RFP 3000 Master Purchase Agreement Documents
- Attachment #4: K-12 WAN Equipment Vendor List
- Attachment #5: EPL Evaluation Criteria
- Attachment #6: Procurement Handbook 018-010 Evaluation Criteria
- Attachment #7: EPL 3275 Dell Server
- Attachment #8: EPL 3276 Cisco Switches
- Attachment #9: Quotes for LAN-Network Request
- Attachment #10: Procurement Manual Section 37-7-13
- Attachment #11: Quotes for 3Com NBX System
- Attachment #12: Procurement Manual Section 3.207.01
- Attachment #13: Quotes for Services Contract

**YAZOO COUNTY SCHOOL DISTRICT
BILLED ENTITY #128639
APPEAL DATED March 24, 2005**

ATTACHMENT #1



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

January 25, 2005

YAZOO COUNTY SCHOOL DISTRICT
Mickey Rivers
119 W JEFFERSON ST
YAZOO CITY, MS 39194

Re: Form 471 Application Number: 363676
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 128639
Applicant's Form Identifier: 6Yaco-Synergetics

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$142,799.54 is "Denied."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Box 125--Correspondence Unit, 80 South Jefferson Road, Whippany, New Jersey, 07981
Visit us online at: www.sl.universalservice.org

FUNDING COMMITMENT REPORT

Form 471 Application Number: 363676

Funding Request Number: 986589 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: LAN SERVER EPL
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 06/30/2004
 Site Identifier: 43149
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$14,796.00
 Pre-discount Amount: \$14,796.00
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 986814 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: MS2003-4209
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 06/30/2004
 Site Identifier: 43390
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$21,120.00
 Pre-discount Amount: \$21,120.00
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 986870 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: MS2003-4209
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 06/30/2004
 Site Identifier: 43149
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$21,120.00
 Pre-discount Amount: \$21,120.00
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 986906 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: MS2003-4209
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 06/30/2004
 Site Identifier: 43359
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$21,120.00
 Pre-discount Amount: \$21,120.00
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 363676

Funding Request Number: 987053 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: LAN NETWORK EPL
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 06/30/2004
 Site Identifier: 231805
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$47,037.00
 Pre-discount Amount: \$47,037.00
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 987105 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: LAN SERVER EPL
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 06/30/2004
 Site Identifier: 231805
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$12,586.00
 Pre-discount Amount: \$12,586.00
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 987150 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: 3000
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 12/31/2005
 Site Identifier: 43390
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$5,246.00
 Pre-discount Amount: \$5,246.00
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 987187 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: 3000
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 12/31/2005
 Site Identifier: 43149
 Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$5,246.50
 Pre-discount Amount: \$5,246.50
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 363676
 Funding Request Number: 987227 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: 3000
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 12/31/2005
 Site Identifier: 43359
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$5,246.50
 Pre-discount Amount: \$5,246.50
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 987300 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: 3000
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 12/31/2005
 Site Identifier: 231805
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$5,246.50
 Pre-discount Amount: \$5,246.50
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

Funding Request Number: 987393 Funding Status: Not Funded
 Services Ordered: Internal Connections
 SPIN: 143004683 Service Provider Name: Synergetics Diversified Computer
 Contract Number: 0017BDER
 Billing Account Number: 6627464672
 Earliest Possible Effective Date of Discount: 07/01/2003
 Contract Expiration Date: 06/30/2004
 Site Identifier: 231805
 Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$10,353.50
 Pre-discount Amount: \$10,353.50
 Discount Percentage Approved by the SLD: N/A
 Funding Commitment Decision: \$0.00 - Bidding Violation
 Funding Commitment Decision Explanation: Documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal.

**YAZOO COUNTY SCHOOL DISTRICT
BILLED ENTITY #128639
APPEAL DATED March 24, 2005**

ATTACHMENT #2

Original Message -----

From: M. Rivers

To: Earl Baderschneider

Sent: Thursday, November 04, 2004 3:21 PM

Subject: Reply to funding year 2003 E-Rate

Earl,

After talking to our state director for e-rate, she suggested I try to answer your questions in the following way.

According to our state law, the bidding process was done through the state agencies and they placed all acceptable bids for all eligible services on the EPL. (express products list, also known as the state contract) The state has done this so each individual district does not have to file 470's for each and every service. We chose our vendors for the following reasons:

BellSouth-The only vendor available to supply ATM lines and voice lines into our region.

Telepak-This cellular provider was the same price as others on the state contract and they are the only provider that has an office in our county.(100%) Any other provider is housed in Jackson, about 1 hour away. We also have been doing business with Telepak, Cellular South, since before e-rate began.

ITC-Delta Com-This out of state long distance provider was the only provider on the state contract. We had to choose them because we had not filed a 470 previously.

Synergetics-We chose Synergetics for our Smartnet Maintenance from the state contract. We chose them because of our geographic location and their proximity.(50%) We also chose them because of their excellent work record in the past. (50%)

Synergetics-We chose Synergetics for all Internal Connections projects that were on the state contract. We chose them because of our geographic location and their proximity. (50%) We also chose them because of their excellent work record in the past. (50%)

If I need to do anything else, please let me know. Thanks for your hard work.

Mickey Rivers
Yazoo County Schools

**YAZOO COUNTY SCHOOL DISTRICT
BILLED ENTITY #128639
APPEAL DATED March 24, 2005**

ATTACHMENT #3